

Late Backup

TO: Mayor and Council Members
FROM: Bob Gregory
DATE: April 21, 2011
RE: Agenda Item # 44 – Long Term Residential Single Stream Recyclables MRF Contract

Dear Mayor and Council Members,

Over the past five days, TDS has had the opportunity to review the staff's proposed Balcones contract and we have discovered that staff has negotiated a dramatically different type of contract as compared to what staff has negotiated with TDS relating to the way Balcones has to process and pay the City for single stream recyclables. Over the past two days, we have had the opportunity to negotiate with staff, to accept portions of Balcones contract language, and to begin to understand this different approach for processing and marketing of recyclable products and, upon their offer, we have incorporated most of the differences existing in the Balcones contract into the proposed TDS contract. Also, late yesterday afternoon, we were given the opportunity to add the Balcones contract revisions that staff reported came as a result of our negotiations with staff on Tuesday. The end result of all this is that TDS now has a contract that allows a lesser degree of processing costs and different uses of sorted materials, the same as the staff had allowed for Balcones. This is a game changer for TDS and for the contract negotiations, if the City Council wants to allow a week more of contract negotiations to allow TDS to verify with staff the details that will allow TDS to significantly reduce its proposed processing fees. It appears to me that the TDS contract language negotiations are now complete and TDS just needs to confirm with staff their allowance for this understanding and to negotiate rate adjustments. Then, the Council should be able to consider proposals from two local companies processing and marketing the City's single stream recyclables in the same manner; something we thought was intended by staff and Council, until the past two days.

Please delay the vote on the long term single stream recyclables processing contract to allow the final contracts for Balcones (BRI) and Texas Disposal Systems (TDS) to be posted as agenda backup to the City's website ahead of scheduled council action. If the contracts can be completed tomorrow, then the vote could occur on April 28th, or at the next scheduled council meeting on May 12th. As you know, the next scheduled SWAC meeting is May 11th, if you want their opinion on the final contracts. This will

allow both companies' representatives to review the final wording of each contract, as well as the public and other interested parties, and will allow Council to understand the details of both companies' plans to process and market the City's single stream recyclables. Otherwise, if you feel you must move ahead with a vote today, please rely on the pricing already negotiated with staff, but please recognize that neither TDS nor the public has seen Balcones' contract revisions reportedly designed to protect the City from numerous potential problems identified this week.

From the most recent Balcones contract language made available on the City's website as backup to today's agenda item, and which was made available for SWAC review, I believe the following things are true and excellent reasons to delay today's contract approval action:

- a) Neither the Council nor the public has seen either company's final contract language, and the Balcones contract language currently posted on the City's website has been changed enough to warrant reposting, particularly since the Balcones pricing schedule posted is inaccurate, according to Mr. Gedert, and incomplete.
- b) No one has seen the TDS negotiated contract.
- c) Since the Balcones contract method of reporting and paying for recyclables extracted from the City's single stream recyclables is so dramatically different from the TDS requirements in the existing short term contract, and in the long term contract and rates proposed by TDS until yesterday, as discussed above, the staff could not have accurately predicted the value of recyclables that Balcones will "extract from" the City's recyclables in the future, and the Council has no way of knowing whether the staff's financial analysis comparisons of the net revenue from Balcones is even close to being reliable. The bottom line is that if you approve the Balcones contract as currently proposed, you will not know how much the City will be paid, because the Balcones contract allows a completely different method for recognizing the weight of the recyclables and for payment. It is very different from the method TDS and staff have used for the past six months and how staff evaluated the financial performance of the TDS contract in comparison to the Balcones contract.
- d) As currently worded, Balcones can designate a Transition Facility, and that Transition Facility can remain in operation and the Cutover Date does not occur until the Johnny Morris Road facility is completed. Furthermore, there is no deadline to even build or complete the Johnny Morris Road facility. This would mean that the selected Transition Facility would be pre-approved today, which has not yet been disclosed – except for the East 6th and

Pedernales location which was okayed by staff and presented last Friday in the posted Balcones contract, but which has subsequently been rejected – could become the location for as much as 100% of the City’s recyclables to be received and processed, and potentially transferred from, starting in October of this year and extending for as many as eight to twenty years.

- e) The Balcones contract language allows for recyclable materials to be converted to synthetic fuels (syngas) and other types of energy conversion not requiring combustion in the process of creating the fuel. This was contemplated in the Balcones RFP response and specifically reported by staff in the attached 2010 RFP evaluation report (please see highlighted language attached).
- f) The current TDS long term proposal for 100% of the City’s volume of recyclable materials is the best financial proposal available for your consideration today. As you know, TDS submitted long term proposals for various splits of the volume of recyclables as well. TDS has also submitted a new and separate proposal this week for 100% of the volume for only three years.

I hope you will allow additional time to complete this process and allow the public to review one or both of the companies’ contracts you may decide to finalize. I also encourage you to allow whatever contract proposal is approved to come back to Council for a vote to execute the finally negotiated and publicly reviewed language.

Sincerely,
Bob Gregory

ATTACHMENT A

**PURCHASING
RDR0005 RECYCLING SERVICES
FINAL EVALUATION MATRIX**

Firm (or Joint Venture)	Item 1 [25]	Item 2 [15]	Item 3 [15]	Item 4 [15]	Item 5 [15]	Item 6 [15]	[100]	Item 7 [20]	[120]	Item 8 [8]	[128]
	Community Values	Total Evaluated Cost	Demonstrated Applicable Experience and Personnel Qualifications	Implementation Schedule	Operations, Equipment and Facilities	Financial Capability and Capacity	SUB TOTAL	Interviews	SUB TOTAL	Council Presentations	TOTAL POINTS
Evaluators:	TEAM 2	TEAM 1	TEAM 3	TEAM 4	TEAM 3	TEAM 1		ALL TEAMS		ALL TEAMS	
PARTNERSHIP (Public/Private) SERVICE SOLUTION											
Allied Waste Services of Austin	21.50	14.67	14.50	11.50	11.00	11.67	84.83	17.53	102.36	7.00	109.36
WM Recycle America, LLC	19.50	7.33	13.25	12.25	10.67	12.67	75.67	15.16	90.83	3.27	94.10
FCR LLC	17.50	3.83	13.50	14.75	11.33	8.67	69.58	15.36	84.94		84.94
Hudson Baylor Corp.	10.50	12.00	12.50	8.75	11.67	10.00	65.42	13.16	78.58		78.58
Greenstar Mid-America, LLC	10.50	7.33	12.00	8.75	8.67	8.33	55.58		55.58		55.58
PRIVATE SERVICE SOLUTION											
Balcones Resources Inc.	19.25	7.33	10.75	12.75	11.00	6.00	67.08	14.07	81.15	7.25	88.40
IESI Texas Corp.	12.50	6.33	10.25	8.75	7.67	10.00	53.50		53.50		53.50

ATTACHMENT B

EVALUATION PANEL QUESTIONS - April/May 2010	ALLIED WASTE SERVICES	BALCONES RECYCLING	WASTE MANAGEMENT RECYCLE AMERICA	CITY STAFF NOTES
		Balcones has completed the conceptual design for the addition of new portable recycling processing equipment and the modification of the system to more readily accommodate the processing of residential single-stream recyclables.	WM has two Single Stream facilities which will be able to accept Austin program material, with the primary facility being Arlington, Texas. Both have reserved primary capacity for Austin City material. Houston will be starting up in Jan 2010 and material could go there as a back up. Presently, no other Single Stream options are available in Austin and, due to the bonding capacity required for this project in the RFP, WMRA could not propose any other alternative, which we could not guarantee would be operable by the required Sept date. Finally, GHG savings between the existing City contractor and Arlington are negligible. If a closer option is the City's preference, WMRA is flexible in that regard.	
	CITY COST, REVENUE SHARE, TRANSPORTATION	CITY COST, REVENUE SHARE, TRANSPORTATION	CITY COST, REVENUE SHARE, TRANSPORTATION	
Provide operational costs to city for transition period.	Fixed \$25/ton Fee for transportation, separation, delivery, and marketing for up to 100% of City's total recycling volume during the transition period.	Add \$850,000.00 in new, portable machinery to process the recyclables	\$68.61 Ton Tip Fee 90% Fiber/ 75% Commingled Containers. 1 The City will pay a fixed rate of \$22.25 T for transport. 2	
	As an alternative, AWS would agree to either an actual cost pass through or negotiate an alternative fixed fee with rebate of actual sales price of marketed recycled goods.	\$250,000.00 in machinery installation, modification, and start-up costs	Under Current April market conditions, the City today would receive an estimated rebate over ~\$18 per ton for its material after costs, based on historical composition.	CoA Revenues from Greenstar in March 2010 (Net Revenues minus expenses) = +\$24,000 (approx \$6.00 per ton net revenues over expenses)
	AWS would make its accounting records for these activities available to the City for verification.	\$100,000.00 in Motor Control coordination and electrical commissioning	NOTES:	
		\$500,000 for additional baler	1.) In order for the City to make valid comparisons, WMRA used the current City contract as a model for this proposal since there was not a defined pricing page. WMRA is open to other options the City may want to pursue.	
		Balcones will make the approximate \$1.7M capital investment. The City will receive 94% of the actual sales prices of the commodities and reimburse Balcones for all operating expenses plus 10%. Balcones will share all financial and operational data with the City throughout the process.	2.) If the City requires WMRA to load the trailers, add \$2.50 per to the cost.	
		Upon completion of the transition period and the opening of the new Balcones/ City of Austin MRF, Balcones will remove the equipment added to the Todd Lane system and return plant to original condition, as required.		
Operational Standards				
(Includ daily tonnage limit (tpd))	240.0 tons per shift	262.5 tons per shift	210.0 tons per shift	Current CoA recycling flow requires 200 tons per day processing facility. 250 tons/day will be require in 2012, and 300 ton/day required in 2015.
Daily Staff Number - Operations Floor (excluding sort line)	55 processing employees	27 processing employees	24 processing employees	
Overall Staff counts (admin/operations/etc)	60 total dedicated employees	35 total dedicated employees	29 total dedicated employees	50 - 100 staff is typical for this type operation

EVALUATION PANEL QUESTIONS - April/May 2010	ALLIED WASTE SERVICES	BALCONES RECYCLING	WASTE MANAGEMENT RECYCLE AMERICA	CITY STAFF NOTES
<p>Recycling Market Questions</p> <p>Please list the all paper grades you propose to accept in year 1 of MRF operations.</p>	<p>AWS will accept newspaper and advertising supplements; Mixed Paper: magazines, junk mail, paperboard, telephone directories, office paper, corrugated boxes and containers, and aseptic containers.</p>	<p>We can recycle all paper grades defined by the Institute of Scrap Recycling Industries, an international trade association. Please see attached exhibit (1) for descriptions of the grades.</p>	<p>WMRA proposes to accept the following paper grades in year 1 of MRF operations. ALL FIBERS INCLUDING: Old newspaper (ONP) which includes newspaper and advertising supplements; Mixed Paper: magazines, junk mail, paperboard, telephone directories, anything that tears; Sorted Office Paper (SOP): high grade paper from offices such as computer paper, sorted white ledger, copier paper and office stationery; Old Corrugated Containers (OCC): Kraft cardboard boxes and Aseptic Containers.</p>	
<p>Please note paper grades accepted, but not able to recycle in today's markets.</p>	<p>AWS has markets for all the materials accepted in the proposal.</p>	<p>None</p>	<p>WM has markets for all the materials accepted in the proposal (page 90). Markets change over time. WM would notify the City on a regular basis (formalized and stipulated in a final operating agreement) plastic items that do become recyclable and items that no longer have positive value or have negative value and reduce Austin's proposed revenue share.</p>	
<p>Please list the all plastic grades you propose to accept in year 1 of MRF operations.</p>	<p>All rigid plastic containers #1-7 up to two gallons in size.</p>	<p>containers of HDPE, CHPE, PETE, PVC#3, LDPE#4, PP#5, PS#6 & Plastic-other</p>	<p>WMRA proposes to accept the following plastic grades in year 1 of MRF operations. All Plastic Containers #1-7, including PET, HDPE, PVC, LDPE, PP and PS; Plastic Bags in bags and Household Rigid Plastics.</p>	
<p>Please note plastic grades accepted, but not able to recycle in today's markets.</p>	<p>We will not accept containers that contained hazardous materials such as pesticides or reactive chemicals.</p>	<p>None</p>	<p>WM has markets for all the materials accepted in the proposal (page 90). Markets change over time. WM would notify the City on a regular basis (formalized and stipulated in a final operating agreement) plastic items that do become recyclable and items that no longer have positive value or have negative value and reduce Austin's proposed revenue share.</p>	
<p>Please list the all metal grades you propose to accept in year 1 of MRF operations.</p>	<p>All aluminum, steel, bi-metal, and tin metal containers up to two gallons in size and clean foil pans and sheets.</p>	<p>UBC, Tin, Steel, Bi-metal</p>	<p>WMRA proposes to accept the following metal grades in year 1 of MRF operations. Ferrous Metals (Tin, Steel and Bi-Metal Containers): food and beverage, non-food and aerosol cans made of ribbed metal such as tin and steel; Used Beverage Cans (UBC): household beverage cans made of aluminum; Small Household Appliances: list of acceptable small appliances is to be determined and mutually agreed upon by both the City and WMRA. WMRA is flexible to other grades of metals which will not harm the equipment and/or are not hazardous in nature.</p>	
<p>Please note metal grades accepted, but not able to recycle in today's markets.</p>	<p>We will not accept containers that contained hazardous materials such as pesticides or reactive chemicals.</p>	<p>None</p>	<p>WM has markets for all the materials accepted in the proposal (page 90). Markets change over time. WM would notify the City on a regular basis (formalized and stipulated in a final operating agreement) plastic items that do become recyclable and items that no longer have positive value or have negative value and reduce Austin's proposed revenue share.</p>	

EVALUATION PANEL QUESTIONS - April/May 2010	ALLIED WASTE SERVICES	BALCONES RECYCLING	WASTE MANAGEMENT RECYCLE AMERICA	CITY STAFF NOTES
Where will your residuals be disposed of?	All non-recycled materials will be disposed of in AWS Sunset Farms Landfill until that facility closes in November 2015. After that facility closes, residuals will be disposed of in another authorized solid waste disposal facility.	Local landfills	WMRA proposed Austin Community Landfill. WM of Texas also has a back up facility in Williamson County in the unlikely event of disruption.	
If multiple locations/uses, please explain.	N/A	NA	N/A	
Do you propose Pyrolysis, Waste to Energy (WTE) or Refuse Derived Fuel (RDF) component?	NO	Yes, see narrative below	NO	CoA Zero Waste Plan requires highest and best use of material.
If yes, note material type, quantity per year, and why WTE.		All residuals except glass could become engineered fuel.		
Note: City of Austin prefers Highest and Best Use of collected recyclables.		We estimate that 34,265 tons could be reclaimed.	WMRA also prefers highest and best use of collected recyclables.	
		Phase 1 - Non-recyclable residuals would be combined with similar material that Balcones handles (including biomass). The combined recipe would be converted to		CoA desires to avoid Waste to Energy options in favor of advanced material recovery.
		an engineered product (similar to the fuel that Balcones has been producing for 8 years and is still producing in Little Rock, AR). The engineered fuel would then		
		be shipped to several local coal-fired operations to be used as a cleaner coal replacement.		
		Phase 2 - For the past five years Balcones and it's subsidiary, Balcones Fuel Technology have been investigating a number of pyrolysis platforms. We expect		
		several of these technologies to be commercialized in the next 1 to 2 years. Upon successful commercialization of one or more of these processes, Balcones		
		plans to install and operate one or more local, distributed generation co-gen operations. The system would be designed to produce a combination of syn-gas,		
		bio-char and pyrolysis oil.		
Safety Record:				
Do you have a designated Safety Representative?	Yes	Yes	Yes	Designated Safety Officer on site will be required by contract.
OSHA citations: Provide a list of any pending or past OSHA citations against Proposer, its principals and associates within the past 5 years in the state of Texas.	No OSHA Citations or Notices of Violations issued for safety related issues within the past five years.	No pending or past OSHA citations in our company's history. In fact, Balcones has been recognized by OSHA as an exemplary operation and has been awarded the Safety & Health Achievement Recognition Program for 2009 - 2011.	WM Recycle America, L.L.C. has not had any OSHA citations within the past five years in the State of Texas; nor are any such actions currently pending in the State of Texas.	All OSHA regulations are required - CoA will inspect facility and safety records monthly.

ATTACHMENT C

Finalists for Austin Material Recovery Facility
Cost Summary

June 3, 2010

Fiscal Year Ending	Allied Waste		Processing Cost	City D/S Cost (3)	Total Cost	Weighted Avg		Share to City	Net Revenue to City	
	Material (tons) (1)	Price (per ton) (2)				Price (per ton) (2)	Total Revenue		Share to City	City
2011	55,000	\$18.00	\$1,375,000	\$0	\$1,375,000	\$100.00	\$ 5,506,000	\$0	\$ (1,375,000)	
2012	56,650	102.00	3,399,000	0	3,399,000	102.00	5,778,300	4,622,640	1,223,640	
2013	58,350	104.04	3,570,989	0	3,570,989	104.04	6,070,682	4,856,546	1,285,556	
2014	60,100	106.12	3,751,681	0	3,751,681	106.12	6,377,858	5,102,287	1,350,605	
2015	61,903	108.24	3,941,517	0	3,941,517	108.24	6,700,578	5,360,463	1,418,548	
2016	63,760	110.41	4,140,957	0	4,140,957	110.41	7,039,627	5,631,702	1,490,745	
2017	65,673	112.62	4,350,490	0	4,350,490	112.62	7,395,833	5,916,666	1,566,176	
2018	67,643	114.87	4,570,625	0	4,570,625	114.87	7,770,062	6,216,049	1,845,425	
2019	69,672	117.17	4,801,898	0	4,801,898	117.17	8,163,227	6,530,581	1,728,683	
2020	71,763	119.51	5,044,874	0	5,044,874	119.51	8,576,286	6,861,029	1,816,155	
2021	73,915	121.90	5,300,145	0	5,300,145	121.90	9,010,246	7,208,197	1,908,052	

Fiscal Year Ending	Waste Management		Processing Cost	City D/S Cost (3)	Total Cost	Weighted Avg		Share to City	Net Revenue to City	
	Material (tons) (1)	Price (per ton) (2)				Price (per ton) (2)	Total Revenue		Share to City	City
2011	55,000	\$18.00	\$4,997,300	0	\$4,997,300	\$18.00	\$990,000	\$ 792,000	\$ (4,205,300)	
2012	56,650	102.00	3,711,708	\$3,042,504	6,754,212	102.00	5,778,300	4,622,640	(2,131,572)	
2013	58,350	104.04	3,899,520	3,042,504	6,942,025	104.04	6,070,682	4,856,546	(2,085,479)	
2014	60,100	106.12	4,096,836	3,042,504	7,139,340	106.12	6,377,858	5,102,287	(2,037,054)	
2015	61,903	108.24	4,304,136	3,042,504	7,346,640	108.24	6,700,578	5,360,463	(1,986,178)	
2016	63,760	110.41	4,521,925	3,042,504	7,564,430	110.41	7,039,627	5,631,702	(1,932,728)	
2017	65,673	112.62	4,750,735	3,042,504	7,793,239	112.62	7,395,833	5,916,666	(1,876,573)	
2018	67,643	114.87	4,991,122	3,042,504	8,033,626	114.87	7,770,062	6,216,049	(1,817,577)	
2019	69,672	117.17	5,243,673	3,042,504	8,286,177	117.17	8,163,227	6,530,581	(1,755,595)	
2020	71,763	119.51	5,509,003	3,042,504	8,551,507	119.51	8,576,286	6,861,029	(1,690,478)	
2021	73,915	121.90	5,787,758	3,042,504	8,830,262	121.90	9,010,246	7,208,197	(1,622,065)	

Fiscal Year Ending	Waste Management		Processing Cost	City D/S Cost (3)	Total Cost	Weighted Avg		Share to City	Net Revenue to City	
	Material (tons) (1)	Price (per ton) (2)				Price (per ton) (2)	Total Revenue		Share to City	City
2011	55,000	\$18.00	\$4,997,300	0	\$4,997,300	\$18.00	\$990,000	\$ 792,000	\$ (4,205,300)	
2012	56,650	102.00	5,892,685	1,458,129	7,060,814	102.00	5,778,300	\$4,622,640	(2,438,174)	
2013	58,350	104.04	5,886,181	1,458,129	7,344,310	104.04	6,070,682	4,856,546	(2,487,764)	
2014	60,100	106.12	6,184,022	1,458,129	7,642,151	106.12	6,377,858	5,102,287	(2,539,864)	
2015	61,903	108.24	6,496,933	1,458,129	7,955,062	108.24	6,700,578	5,360,463	(2,594,600)	
2016	63,760	110.41	6,825,678	1,458,129	8,283,807	110.41	7,039,627	5,631,702	(2,652,105)	
2017	65,673	112.62	7,171,057	1,458,129	8,629,186	112.62	7,395,833	5,916,666	(2,712,520)	
2018	67,643	114.87	7,533,913	1,458,129	8,992,042	114.87	7,770,062	6,216,049	(2,775,993)	
2019	69,672	117.17	7,915,129	1,458,129	9,373,258	117.17	8,163,227	6,530,581	(2,842,676)	
2020	71,763	119.51	8,315,634	1,458,129	9,773,763	119.51	8,576,286	6,861,029	(2,912,735)	
2021	73,915	121.90	8,736,405	1,458,129	10,194,534	121.90	9,010,246	7,208,197	(2,986,338)	

(1) Assumes 3% annual increase
(2) FYE 2011 includes Transition Plan costs only. All other years assume 2% annual increase.
(3) Assumes 5% annual interest cost for buildings and 3% annual interest cost for equipment.

Finalists for Austin Material Recovery Facility
 Cost Summary

June 3, 2010

Fiscal Year	Material (tons) (1)	Processing Cost	City D/S Cost (3)	Total Cost	Weighted Avg Price (per-ton) (2)	Total Revenue	Share to City	Net Revenue to City
2011	55,000	\$6,490,000	0	\$6,490,000	100.00	\$5,500,000	\$ 5,170,000	\$ (1,320,000)
2012	56,650	6,684,700	0	6,684,700	102.00	5,778,300	\$5,431,602	(1,253,098)
2013	58,350	7,022,946	0	7,022,946	104.04	6,070,682	5,706,441	(1,316,505)
2014	60,100	7,378,307	0	7,378,307	106.12	6,377,858	5,995,187	(1,383,120)
2015	61,903	7,751,649	0	7,751,649	108.24	6,700,578	6,298,543	(1,453,106)
2016	63,760	8,143,883	0	8,143,883	110.41	7,039,627	6,617,250	(1,526,633)
2017	65,673	8,555,963	0	8,555,963	112.62	7,395,833	6,952,083	(1,603,881)
2018	67,543	8,988,895	0	8,988,895	114.87	7,770,062	7,303,858	(1,685,037)
2019	69,472	9,443,733	0	9,443,733	117.17	8,163,227	7,673,433	(1,770,300)
2020	71,363	9,921,586	0	9,921,586	119.51	8,576,286	8,061,769	(1,859,817)
2021	73,315	10,423,618	0	10,423,618	121.90	9,010,246	8,469,631	(1,953,987)
Average								\$ (1,722,550)
Standard Deviation								\$ (3,400,307)

(1) Assumes 3% annual increase
 (2) FYE 2011 includes Transition Plan costs only. All other years assume 2% annual increase.
 (3) Assumes 5% annual interest cost for buildings and 3% annual interest cost for equipment.